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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,561	10/17/2003	Earl Barber	RIT-0004-US	8984
36183 7590 07/17/2007 PAUL, HASTINGS, JANOFSKY & WALKER LLP P.O. BOX 919092 SAN DIEGO, CA 92191-9092			EXAMINER CEGIELNIK, URSZULA M	
			ART UNIT 3711	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary

Application No.

10/686,561

Applicant(s)

BARBER ET AL.

Examiner

Urszula M. Cegielnik

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-11, 17, 18, 31, 34-36, 38-50, 52-65, 67 and 68 is/are pending in the application.
 4a) Of the above claim(s) 6, 12, 19-30, 32, 33, 37, 51, and 66 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-5, 7-11, 17, 18, 31, 34-36, 38-50, 52-65, 67 and 68 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 2/26/04; 6/15/04; 7/21/06
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____

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DETAILED ACTION

The applicant's species election (filed 12 April 2007) is hereby acknowledged.

Claims 67 and 68 are withdrawn from further consideration by the examiner as being directed to the non-elected invention.

Claim Rejections - 35 USC § 102

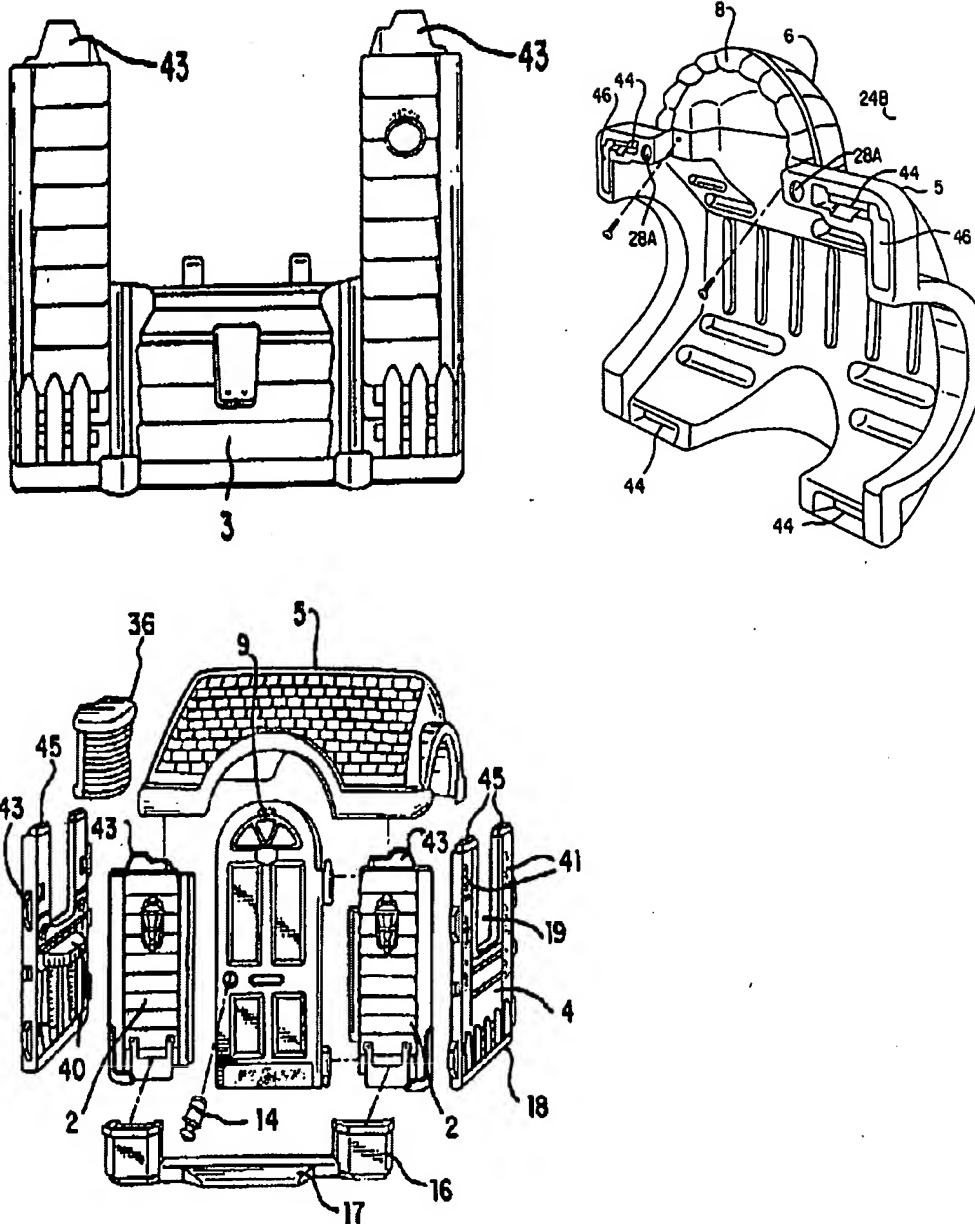
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

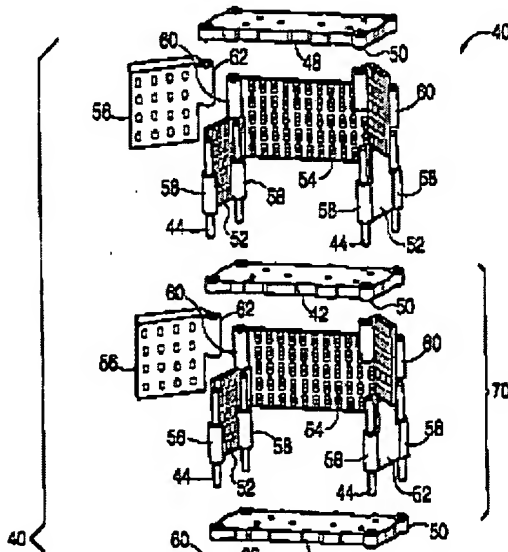
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 7, 8, 17, 39, 41, 42, 43, 45, 46, 47, 48, 49, 50, 52, 53, 54, 56-61, and 63-65 are rejected under 35 U.S.C. 102(b) as being anticipated by Drake, Jr. et al. (US Patent No. 5,706,613).



Drake, Jr. et al. disclose the claimed invention including a blow-molded base having a top wall and a bottom wall; a first cover attached to the blow-molded base over the top wall; and a second cover attached to the blow-molded base over the bottom wall, the second cover having peg-receiving components; the base being blow-molded (col. 5, lines 32-35 – any of the components may be manufactured by blow-molding)..

Claims 1-4, 9-11, 17, 18, 39, 41, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Skov et al. (US Patent No. 6,695,418).



Skov et al. disclose the claimed invention including a blow-molded base having a top wall and a bottom wall; a first cover attached to the blow-molded base over the top wall; and a second cover attached to the blow-molded base over the bottom wall, the second cover having peg-receiving components; the first cover having an inner surface; a flap attached to the inner surface; the second cover having an inner surface and a flap

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drake, Jr. et al. (US Patent No. 5,706,613) in view of Willemsen (US Patent No. 5,493,816).

Drake, Jr. et al. disclose the claimed invention except for the base having a blow-molding aperture and a plug or cap.

Willemsen teaches a base having a blow-molding aperture and a plug (66,67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a blow-molding aperture and a plug as taught by Willemsen, since such a modification would permit flowable substances to escape or enter the blow-molded structure.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drake, Jr. et al. (US Patent No. 5,706,613) in view of Gefrob et al. (US Patent No. 5,107,640).

Drake, Jr. et al. disclose the claimed invention except for the base being injection molded.

Gefrob et al. teach a modular building structure that has components which may be made from any of the known molding processes in the art such as rotational molding, blow molding, or injection molding (col. 8, lines 39-45).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any known molding process such as injection molding as a matter of obvious design choice.

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Claims 5, 31, 34, 38, 44, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drake, Jr. et al. (US Patent No. 5,706,613) in view of Bhatti (US Patent No. 5,664,387).

Drake, Jr. et al disclose the claimed invention except for the base shaped substantially as a parallelepiped having a top wall and a bottom wall.

Bhatti teaches a modular construction toy having a base that is shaped substantially as a parallelepiped having a top wall and a bottom wall.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the abovementioned claimed feature as taught by Bhatti, since such a modification would permit more intricate and varied designs to be assembled.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 34 above, and further in view of Gefrob et al. (US Patent No. 5,107,640).

The modified invention of Drake, Jr. et al. lacks the base being injection molded.

Gefrob et al. teach a modular building structure that has components which may be made from any of the known molding processes in the art such as rotational molding, blow molding, or injection molding (col. 8, lines 39-45).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any known molding process such as injection molding as a matter of obvious design choice.

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Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 34 above, and further in view of Willemssen (US Patent No. 5,493,816).

The modified invention of Drake, Jr. et al. lacks for the base having a blow-molding aperture and a plug or cap.

Willemssen teaches a base having a blow-molding aperture and a plug (66,67).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a blow-molding aperture and a plug as taught by Willemssen, since such a modification would permit flowable substances to escape or enter the blow-molded structure.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

umc


EUGENE KIM
SUPERVISORY PATENT EXAMINER